

THE

# Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET  
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242  
(765) 423-9154 [FAX]

SALLIE DELL FAHEY  
EXECUTIVE DIRECTOR

June 18, 2020  
Ref. No.: 2020-138

Tippecanoe County Commissioners  
20 N. 3<sup>rd</sup> Street  
Lafayette IN 47901

## CERTIFICATION

RE: **Z-2783 CARR FAMILY FARM, LLC (A to I3):**

Petitioner is requesting rezoning of three tracts totaling 97.806 acres east of I-65, south of Haggerty Lane and west of the T-intersection of CR 650 E with Haggerty Lane, adjacent to the north of the Dayton Town limits, specifically 6445 E 200 S, Sheffield 5 (NW) 22-3. With Commitment.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on June 17, 2020 the Area Plan Commission of Tippecanoe County voted 13 yes - 0 no to accept the proposed commitment and 10 yes - 3 no on the motion to rezone the subject real estate from A to I3. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at its July 6, 2020 regular meeting. Petitioners or their representatives must appear to present their case.

If the County Commissioners approve the rezoning with commitment, APC staff will ensure that the approved commitment is recorded and an original recorded commitment sent to Tippecanoe County Commissioners.

Sincerely,

  
Sallie Dell Fahey  
Executive Director

SDF/crl

Enclosures: Staff Report, Ordinances & Commitment

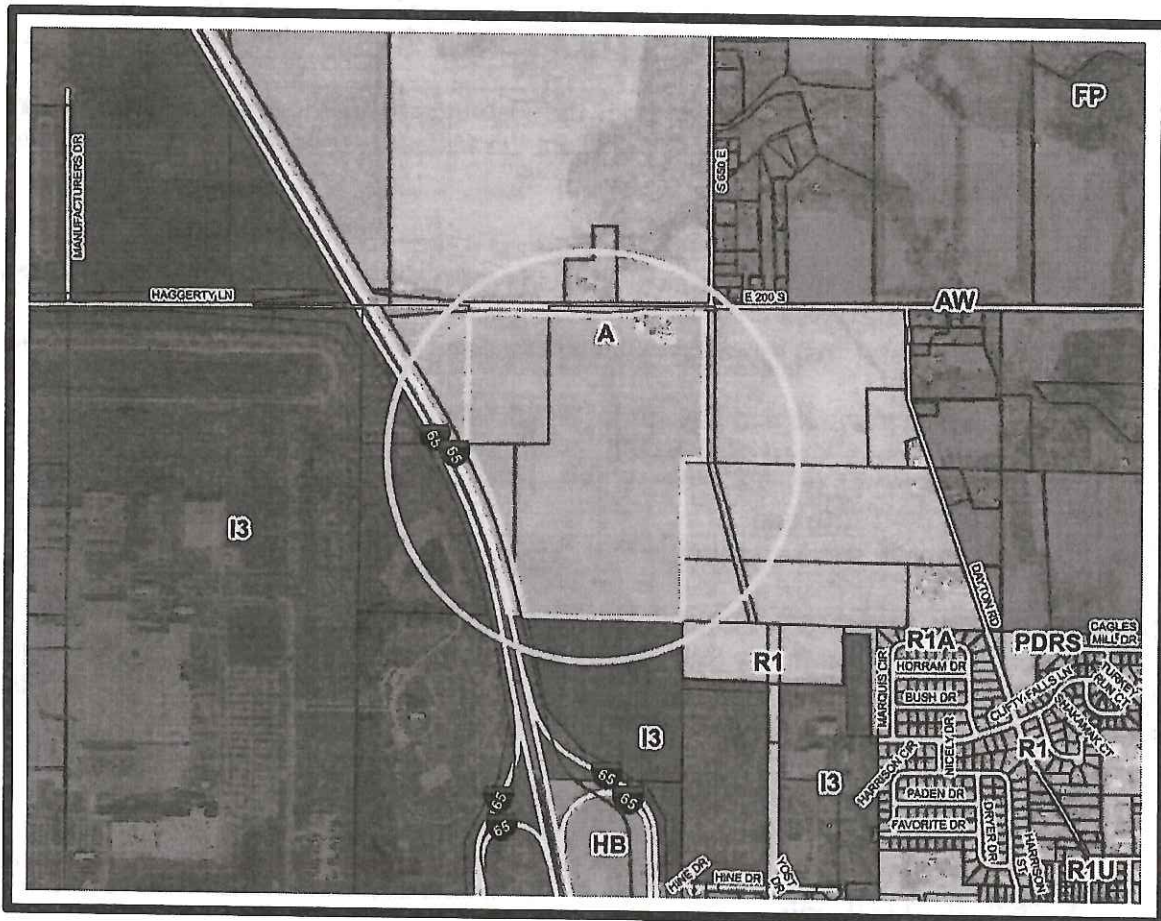
cc: Guthrie Carr  
Kevin Riley, Reling Teder & Schrier, LLC

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**Z-2783**  
**CARR FAMILY FARM, LLC**  
**(A to I3)**

**REVISED STAFF REPORT**  
**March 12, 2020**

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**Z-2783**  
**CARR FAMILY FARM, LLC**  
**A to I3**

**Revised Staff Report**  
**March 12, 2020**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner and property owner, Carr Family Farm, LLC, by member Guthrie P. Carr, represented by attorneys Daniel Teder and Kevin Riley, is requesting rezoning of three tracts totaling 97.806 acres east of I-65, south of Haggerty Lane and west of the T-intersection of CR 650 E with Haggerty Lane, adjacent to the north of the Dayton Town limits, specifically 6445 E 200 S, Sheffield 5 (NW) 22-3. Petitioner has no specific plans for the land in the rezone request, other than to make the land "shovel ready" for future industrial businesses.

Note: This request was continued from the February APC meeting to add a zoning commitment. This commitment would prevent the following uses from locating on site if this I3 rezone request is approved:

1. Confined feeding operations (SIC Major Group 02);
2. Ordnance & accessories, except vehicles and guided missiles (SIC Major Group 348);
3. Taxicabs (SIC 4121);
4. Trash transfer stations, recycling collection facilities and recycling processing facilities (SIC 4212);
5. Scrap & waste material and junkyards (SIC 5093);
6. Motor vehicle parts, used (SIC 5015);
7. Truck stops (SIC 554);
8. Cemeteries (SIC 726) and
9. Truck tire mobile sales and service (SIC 754).

**ZONING HISTORY AND AREA ZONING PATTERNS:**

Originally zoned R1, Single-family Residential, this site became zoned Agricultural in 1983 with the overall rezone of Sheffield Township. Land to the south of this site, located in the Town of Dayton, has been rezoned to I3 over the years as shown below.

- Z-2724: Carr Family Farm, A & HB to I3, approved July 2018
- Z-2723: McCoy Group, R1 & HB to I3, approved May 2018
- Z-2612 and three other rezone requests: MacAllister Machinery, all to I3, approved between 2015 and 2002.

Land adjacent to the east and north is also zoned Agricultural. AW, Agricultural Wooded zoning exists to the northeast; 15 acres of R1 zoning is in place to the southeast. Land west

of the interstate and adjacent to the south of the rezone site is zoned I3. A triangular-shaped tract of land located southeast of the Haggerty Lane bridge and adjacent to the east of the interstate is not part of this request and is owned by the state. The Lafayette corporate boundary runs along the I-65 western right-of-way line, crosses the interstate at Haggerty, then extends due north across the road from this site. Also, the Dayton town limits run along the southern line of this rezone request. The Town of Dayton is in the process of annexing all of the land in this request as well as properties to the east to Dayton Road.

#### **AREA LAND USE PATTERNS:**

These 97 acres are gently rolling farmland with an existing farmstead including a house and several agricultural-related structures near its northeast corner. Current surrounding land uses are all agricultural except for one residence to the north and a couple of houses farther to the east along Dayton Road. Farther to the southeast is MacAllister Machinery. South of the rezone site, on the west side of Yost Drive extended, a 26 acre site rezoned to I3 in 2018 will soon be home to a Daimler truck dealership; construction is due to begin this spring. West of I-65 and north of Haggerty is a Toyota commercial warehouse and the Lafayette Armory; the 608 acres south of Haggerty stretching to SR 38 is home to the Subaru automotive plant.

#### **TRAFFIC AND TRANSPORTATION:**

Haggerty Lane is classified as a rural secondary arterial by the adopted *Thoroughfare Plan*. Yost Drive, which will eventually connect SR 38 to the south with CR 650 E at Haggerty will be a collector and will provide about a quarter mile of frontage to the rezone site. The Town of Dayton is currently using federal funds to develop the necessary engineering on this road project. A small piece of right-of-way is still needed and will be obtained in fiscal year 2024 with the actual construction of the road occurring after that.

#### **ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

The site in question has water from the town, but currently not sewer. There is a water main located in the Yost Drive right-of-way to Haggerty. Sewer exists just to the south of the rezone site. An agreement between Dayton and Lafayette states that Dayton will serve this area south of Haggerty Lane with utilities. Before development can occur, the standard utility/service agreement with Dayton would have to be approved.

A type C bufferyard is a requirement between I3 and Agricultural zoned land and would be necessary along two sections of the rezone site's property line.

#### **STAFF COMMENTS:**

In 1996, the Town Board of Dayton as well as the County Commissioners adopted the *Second Amendment to the Adopted Land Use Plan for Dayton and Vicinity*. (The first amendment was done in 1987 when the announcement of the SIA plant was made.) This *Second Plan* was very specific regarding future land uses between the town proper and the interstate and SR 38 and Haggerty Lane to the north. The Plan calls for Office Research/Light Industrial on the site in question on the west side of Yost Drive, extended.

Currently the town is finalizing the "Dayton & Tippecanoe County Joint EDA-TIF district that includes this rezone site; this area is also in the process of being annexed by the town. Once this is completed, APC staff will begin work on a new Comprehensive Plan Amendment for this area to replace the amendment written almost 25 years ago.



Until the annexation is completed and the new plan amendment is finished, staff feels it is premature to rezone this land currently under the jurisdiction of the County Commissioners. However, if the hearing moves forward, staff can only recommend rezoning to the I1, Light Industrial district since that is what the adopted plan currently in place recommends. While the commitment added to this rezone request places some limits on uses that may locate here, it would still allow outside storage of materials. Based on the plan currently in place, staff still feels the I1 zone would best fulfill the plan's recommendation.

**STAFF RECOMMENDATION:**

Denial

If revised to I1, Light Industrial, staff recommends approval

Key Number 118-00500-0025

Key Number 118-00500-0014

## COMMITMENT

Commitment made on February 20, 2020, by Carr Family Farm LLC (the "Petitioner") pursuant to Indiana Code Section 36-7-4-1015.

1. Petitioner makes this commitment as the owner (the "Owner") of certain real estate (the "Real Estate") located in Tippecanoe County, Indiana, commonly known as three (3) tracts totaling approximately 97 acres east of I-65, south of Haggerty Lane, and west of the T-intersection of CR 650 E with Haggerty Lane and more particularly described on Exhibit A which is attached hereto and incorporated by reference herein.

2. Petitioner has filed a request with the Area Plan Commission of Tippecanoe County, Indiana (the "APC"), to rezone the Real Estate from A to I3 which request is pending before the APC as case no. Z-2783.

3. Petitioner hereby agrees and makes the following commitment in connection with the rezoning request in case no. Z-2783:

The following uses shall not be permitted:

1. Confined feeding operations (SIC Major Group 02)
2. Ordnance & Accessories, Except Vehicles and Guided Missiles (SIC Major Group 348)
3. Taxicabs (SIC 4121)
4. Trash Transfer Stations, Recycling Collection Facilities and Recycling Processing Facilities (SIC 4212)
5. Scrap & Waste Material and Junkyards (SIC 5093)
6. Motor Vehicle Parts, Used (SIC 5015)
7. Truck Stops (SIC 554)
8. Cemeteries (SIC 726)
9. Truck Tire Mobile Sales and Service (SIC 754)

4. Petitioner understands and agrees that this commitment is given to the APC and the Tippecanoe County Commissioners (the "Legislative Body") as an inducement for the recommendation for and approval of the rezoning request in case no Z-2783. Petitioner further understands and agrees that the approval of the rezoning request in case no. Z-2783 by the Legislative Body constitutes good and valuable consideration for the giving of this commitment.

5. This commitment shall be a covenant running with the Real Estate and binding and enforceable against Petitioner, any subsequent owner, or any other person who acquires any interest in the Real Estate. Any change or modification of this commitment shall only be made with the approval of the APC at a public hearing in accordance with all rules and regulations of the APC.

6. Petitioner agrees that each of the following shall each be a "specially affected person" under Indiana Code Section 36-7-4-1015(d)(3) who shall each independently be entitled to bring an action to enforce the terms and conditions of this commitment in the Circuit or Superior Courts of Tippecanoe County, Indiana:

- a. the APC,
- b. the Area Board of Zoning Appeals of Tippecanoe County, Indiana,
- c. the appropriate Administrative Officer designated in the Unified Zoning Ordinance for Tippecanoe County, Indiana,
- d. Tippecanoe County Commissioners

CARR FAMILY FARMS, LLC

By: Guthrie P. Carr, Member

STATE OF INDIANA )

COUNTY OF Tippecanoe )

SS:

Before me, the undersigned, a notary public, personally appeared Guthrie P. Carr, and acknowledged the execution of the foregoing commitment on February 19, 2020.



Amy R. Walker, notary public  
Resident of Tippecanoe County

My commission expires:

9-21-2026

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Daniel A. Teder

This instrument prepared by: Daniel A. Teder of the law firm Reiling Teder & Schrier, LLC, 250 Main Street, Suite 601, P O Box 280, Lafayette IN 47902. Telephone: (765) 423-5333 Email: dat@rtslawfirm.com



**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF TIPPECANOE**  
**COUNTY, INDIANA, TO REZONE CERTAIN REAL ESTATE**  
**FROM A TO I3**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TIPPECANOE COUNTY, INDIANA:**

**Section 1:** The Unified Zoning Ordinance of Tippecanoe County, Indiana, being a separate ordinance and not part of a unified county code is hereby amended to rezone the following described real estate situated in Sheffield Township, Tippecanoe County, Indiana

SEE ATTACHED

**Section 2:** The above-described real estate should be and the same is hereby rezoned from **A TO I3**.

**Section 3:** This ordinance shall be in full force and effect from and after its adoption.

**(Adopted And Passed) (Denied) by the Board Of Commissioners of Tippecanoe County, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.**

VOTE:

\_\_\_\_\_  
David Byers, President

\_\_\_\_\_  
Tracy Brown, Vice President

\_\_\_\_\_  
Thomas Murtaugh, Member

ATTEST:

\_\_\_\_\_  
Robert Plantenga, Auditor



## EXHIBIT A

### PARCEL I – RECORD LEGAL DESCRIPTION

(Per Instrument No. 200000028399)

A part of the northwest quarter of Section Five (5), Township Twenty-two (22) North, Range Three (3) West, in Sheffield Township, Tippecanoe County, Indiana, described as follows: Beginning at a point on the north line, 1441.2 feet east of the northwest corner of said Section 5, and running thence west along said north line 341.2 feet to the start of new right of way on County Road No. 200 South; thence south 25.0 feet; thence following new right of way line of said County Road No. 200 South, South 81°-11'-09" West 101.12 feet; thence South 87°-10'-19" West 225.22 feet; thence South 89°-43'-00" West 40.00 feet; thence South 85°-12'-45" West 530.94 feet to a point on the easterly right of way line of Interstate Highway No. 65; thence southeasterly along said right of way line South 31°-00'-00" East 763.26 feet; thence southeasterly 1903.41 feet along a curve to the right in said right of way, having a radius of 5859.58 feet and subtended by a long chord having a bearing of South 21°-41'-39" East and a length of 1895.05 feet, to a point where said right of way line crosses the east line of the property; thence North along said east line 1291.1 feet; thence east 155.6 feet; thence north 1226.7 feet to the beginning point, containing 31.20 acres, more or less.

EXCEPTING THEREFROM A part of the northwest quarter of Section 5, Township 22 North, Range 3 West, Tippecanoe County, Indiana, described as follows: Beginning at a point on the west line of the southeast quarter of said northwest quarter North 00°-41'-48" East 41.30 feet (distance taken from Deed Record 304, Page 664) from the southwest corner of said quarter section, which point of beginning is on the eastern boundary of 1-65; (1) thence along the boundary of 1-65 northwesterly 1,903.41 feet along an arc to the left and having a radius of 5,859.58 feet and subtended by a long chord having a bearing North 21°-38'-09" West and a length of 1,895.05 feet; (2) thence North 30°-56'-30" West 763.26 feet along said boundary to the southern boundary of County Road 200 South; (3) thence North 85°-16'-15" East 530.94 feet along the boundary of said county road; (4) thence North 89°-46'-30" East 40.00 feet along said boundary; (5) thence North 87°-13'-49" East 100.10 feet along said boundary; (6) thence south 00°-39'-01" West 1,093.26 feet; (7) thence southeasterly 1,264.98 feet along an arc to the right and having a radius of 5904.58 feet and subtended by a long chord having a bearing of South 20°-14'-13" East and a length of 1,262.56 feet to the west line of said quarter section; (8) thence South 00°-41'-48" West 187.15 feet along said west line to the point of beginning, and containing 10.258 acres, more or less. The above-described land abuts the land described in Deed Record 317, Page 554, and any seeming bearing discrepancies result solely from the different bearing systems upon which they are based.

ALSO EXCEPTING THEREFROM A part of the north fractional half of the northwest quarter and the north fractional half of the northeast quarter of Section 5, Township 22 North, Range 3 West, Tippecanoe County, Indiana, described as follows: Commencing at the northwest corner of said section; thence North 89°-40'-12" East 224.24 feet along the north line of said section; thence North 89°-48'-03" East 873.77 feet along the north line of said section; thence South 00°-11'-53" East 25.00 feet to the point of beginning of this description; which point is on the south boundary of County Road 200 South; thence North 89°-48'-07" East 341.01 feet along said south boundary to the east line of the owners' land; thence South 00°-14'-01" West 34.34 feet along said east line; thence North 89°-05'-21" West 224.20 feet; thence South 87°-17'-25" West 342.29 feet to the west line of the owners' land; thence North 00°-40'-38" East 24.45 feet along said west line to the south boundary of County Road 200 South; thence North 87°-15'-26" East 125.12 feet along said south boundary; thence North 81°-16'-16" East 101.12 feet along said south boundary to the point of beginning, and containing 0.392 acres, more or less.



## PARCEL II – RECORD LEGAL DESCRIPTION

(Per Instrument No. 200000028398)

The southeast quarter of the northwest quarter of Section 5, Township 22 North, Range 3 West, containing forty (40) acres, more or less.

ALSO, The east half of an eighty-two (82) acre tract of land which is described as follows: The north fractional half of the northwest quarter of Section 5 in Township 22 North, Range 3 West, and also, a part of the north fractional half of the northeast quarter of Section 5 in said township and range, particularly described as follows, to-wit: Beginning at the northwest corner of said northeast quarter and running thence east 4.10 chains; thence south 19.10 chains; thence west 4.10 chains; thence north to the place of beginning, containing 41 acres, more or less.

EXCEPTING THEREFROM A part of the southeast quarter of the northwest quarter of Section 5, Township 22 North, Range 3 West, described as follows: Beginning at the southwest corner of said southeast quarter quarter section, said point of beginning also being the southwest corner of the owner's land; (1) thence northerly 41.30 feet along the west line of said quarter quarter section; (2) thence southeasterly 42.41 feet along an arc to the right and having a radius of 5,859.58 feet and subtended by a long chord having a bearing of South 12°-10'-51" East and a length of 42.41 feet to the south line of said quarter quarter section; thence North 89°-01'-21" West 9.41 feet along said south line to the place of beginning, and containing 0.004 acres, more or less.

ALSO EXCEPTING THEREFROM A part of the southeast quarter of the northwest quarter of Section 5, Township 22 North, Range 3 West, Tippecanoe County, Indiana, described as follows: Beginning at a point on the south line of said quarter section South 89°-01'-20" East 9.42 feet from the southwest corner of said quarter quarter section, which point of beginning is the east boundary of 1-65; thence along the boundary of said 1-65 northwesterly 42.41 feet along an arc to the left and having a radius of 5,859.58 feet and subtended by a long chord having a bearing of North 12°-10'-51" West and a length of 42.41 feet to the west line of said quarter quarter section; thence North 00°-38'-18" East 187.15 feet along said west line; thence southeasterly 229.24 feet along an arc to the right and having a radius of 5,904.58 feet and subtended by a long chord having a bearing of South 13°-02'-44" East and a length of 229.22 feet; thence South 11°-56'-00" East 6.21 feet to the south line of the northwest quarter of said section; thence North 89°-01'-20" West 46.17 feet along said south line to the point of beginning, and containing 0.145 acres more or less. (The above-described land abuts the 0.004 acre parcel described in Deed Record 307, Page 664.)

ALSO EXCEPTING THEREFROM A part of the north fractional half of the northwest quarter of Section 5, Township 22 North, Range 3 West, Tippecanoe County, Indiana, described as follows: Commencing at the northwest corner of said section; thence North 89°-40'-12" East 224.24 feet along the north line of said section; thence North 89°-48'-07" East 1,214.70 feet along the north line of said section; thence South 00°-11'-53" East 25.00 feet to the point of beginning of this description, which point is the intersection of the west line of the owner's land with the south boundary of County Road 200 South; thence North 89°-48'-07" East 1,469.92 feet along said south boundary to the east line of the owner's land; thence South 00°-14'-01" West 20.00 feet along said east line; thence South 89°-48'-07" West 4.17 feet; thence North 87°-01'-06" West 90.14 feet; thence South 89°-48'-07" West 490.00 feet; thence South 79°-29'-50" West 111.80 feet; thence South 87°-15'-26" West 225.22 feet; thence North 89°-05'-21" West 550.94 to the west line of the owner's land; thence North 00°-14'-01" East 34.34 feet along said west line to the point of beginning and containing 0.978 acres, more or less.

ALSO EXCEPTING THEREFROM Land being a part of the northeast quarter of Section 5, Township 22 North, Range 3 West of the Second Principal Meridian in Sheffield Township, Tippecanoe County, Indiana, more particularly described as follows: Commencing at the northwestern corner of said northeast quarter and the northwestern corner of a 41 acre parcel conveyed to W. Kelley Carr by Executors' Deed recorded December 14, 1972, in Deed Record 72, Page 3959 in the Office of the Recorder of said County; thence North 89°-33'-38" East along the northern line of said northeast quarter and along the northern line of said 41-acre Carr parcel 172.23 feet to the point of beginning of this description; thence continuing North 89°-33'-38" East along said northern line of said northeast quarter and along the northern line of said 41-acre Carr parcel 59.87 feet to the southwestern corner of the southeast quarter of Section 32, Township 23 North, Range 3 West of the Second Principal Meridian; thence continuing along the northern line of said northeast quarter of Section 5 and along the northern line of said 41-acre Carr parcel, North 89°-34'-46" East 40.13 feet to the northeastern corner of said 41-acre Carr parcel and the most northwestern corner of a 108.53 acre parcel conveyed to Ronald E and Harriet S. Berry by Trustee's Deed recorded March 20, 1987, as Document



Number 87-04093 in the Office of the Recorder of said County; thence South 00°-00'-40" West 1,264.35 feet (1,264.32 feet record) along the eastern line of said Carr parcel and the western line of said Berry parcel to a 15-inch square concrete corner post; thence North 88°-48'-00" West along the southern line of said Carr parcel and the northern line of said Berry parcel 100.02 feet; thence North 00°-00'-40" East parallel with the eastern line of said Carr parcel 1,261.49 feet to the Point of Beginning of this description, containing 2.90 acres, more or less.

Key Number 118-00500-0025

Key Number 118-00500-0014

## COMMITMENT

Commitment made on February 20, 2020, by Carr Family Farm LLC (the "Petitioner") pursuant to Indiana Code Section 36-7-4-1015.

1. Petitioner makes this commitment as the owner (the "Owner") of certain real estate (the "Real Estate") located in Tippecanoe County, Indiana, commonly known as three (3) tracts totaling approximately 97 acres east of I-65, south of Haggerty Lane, and west of the T-intersection of CR 650 E with Haggerty Lane and more particularly described on Exhibit A which is attached hereto and incorporated by reference herein.

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2. Ordnance & Accessories, Except Vehicles and Guided Missiles (SIC Major Group 348)
3. Taxicabs (SIC 4121)
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8. Cemeteries (SIC 726)
9. Truck Tire Mobile Sales and Service (SIC 754)

4. Petitioner understands and agrees that this commitment is given to the APC and the Tippecanoe County Commissioners (the "Legislative Body") as an inducement for the recommendation for and approval of the rezoning request in case no Z-2783. Petitioner further understands and agrees that the approval of the rezoning request in case no. Z-2783 by the Legislative Body constitutes good and valuable consideration for the giving of this commitment.



5. This commitment shall be a covenant running with the Real Estate and binding and enforceable against Petitioner, any subsequent owner, or any other person who acquires any interest in the Real Estate. Any change or modification of this commitment shall only be made with the approval of the APC at a public hearing in accordance with all rules and regulations of the APC.

6. Petitioner agrees that each of the following shall each be a "specially affected person" under Indiana Code Section 36-7-4-1015(d)(3) who shall each independently be entitled to bring an action to enforce the terms and conditions of this commitment in the Circuit or Superior Courts of Tippecanoe County, Indiana:

- a. the APC,
- b. the Area Board of Zoning Appeals of Tippecanoe County, Indiana,
- c. the appropriate Administrative Officer designated in the Unified Zoning Ordinance for Tippecanoe County, Indiana,
- d. Tippecanoe County Commissioners

CARR FAMILY FARMS, LLC

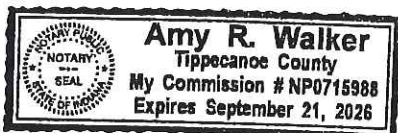
By: Guthrie P. Carr, Member

STATE OF INDIANA )

COUNTY OF Tippecanoe )

SS:

Before me, the undersigned, a notary public, personally appeared Guthrie P. Carr, and acknowledged the execution of the foregoing commitment on February 19, 2020.



Amy R. Walker, notary public  
Resident of Tippecanoe County

My commission expires:

9-21-2026

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Daniel A. Teder

This instrument prepared by: Daniel A. Teder of the law firm Reiling Teder & Schrier, LLC, 250 Main Street, Suite 601, P O Box 280, Lafayette IN 47902. Telephone: (765) 423-5333 Email: [dat@rtslawfirm.com](mailto:dat@rtslawfirm.com)